IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 4508 of 2003()

CC.440/2003 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE
.....

PETITIONER: ACCUSED NO.3

ABDUL GAFOOR S/O. ABDULLAKKUTTY,
VENGATTU MANZIL, FEROKE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT

SATATE OF KERALA, REPRESETED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Criminal M.C.No.4508 OF 2003 (C)

Dated this the 26th day of July, 2007

O R D E R

Petitioner was the 3rd accused in C.C.No.355/1999. He along with two others were charge sheeted under Sections 147, 341, 323, 427 read with Section 34 of the Indian Penal Code. Since he was absconding his case was split up and numbered as C.C.No.440/2003. His contention is that he was in the gulf country in the above period. That is why he was not able to appear before the court. Merely because acquittal or discharge of the co-accused, case against appellant cannot be quashed. It will depends upon the facts of each case. By absconding accused will not get advantage. In the case, witnesses were examined in the main case and PWs.1 to 3 supported the case. But independent eye witnesses did not see the incident and therefore accused 1 and 2 were acquitted. It is for the trial court to consider whether this petitioner can be acquitted as that will depend upon the evidence adduced in the split up

case. However, on the facts and circumstances of the case, the Magistrate is directed to grant bail to the petitioner on his surrender on such conditions as may be fixed. It is for the petitioner to adduce what ever evidence he would like to produce in the trial court. I am not expressing any opinion regarding the merits of the case in this order. With the above directions this Criminal miscellaneous case is disposed of.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal. OF 1998

JUDGMENT

14th March, 2007